



## **Agricultural Marketing Service**

### **7 CFR Part 981**

**[Doc. No. AMS-SC-21-0076; SC21-981-1 PR]**

### **Modification of Marketing Order Regulations for Almonds Grown in California**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule; Reopening of comment period.

**SUMMARY:** The Agricultural Marketing Service (AMS) is providing an additional fifteen (15) days for public comments on the proposed rule that would amend the Federal marketing order regulating the handling of almonds grown in California. Based on recommendations from the Almond Board of California (Board), the proposed rule would modify to make changes to multiple provisions in the administrative requirements.

Comments are solicited from all stakeholders on the process the Board effectuated to develop recommendations and the substance of the rulemaking action.

**DATES:** For the proposed rule published on February 22, 2022 (87 FR 6455), comments must be received by [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or Internet: <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue and the February 22, 2022 (87 FR 9455) issue of the **Federal Register**. The comments will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: <https://www.regulations.gov>. All comments submitted in response to this proposed rule

will be included in the record. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Peter Sommers, Marketing Specialist, or Gary Olson, Regional Director, Western Region Office, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906, or E-mail: PeterR.Sommers@usda.gov or GaryD.Olson@usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Richard.Lower@usda.gov.

**SUPPLEMENTARY INFORMATION:** A proposed rule published in the **Federal Register** on February 22, 2022, (87 FR 6455) would amend administrative requirements in the Order regulating the roadside stand exemption, credit for market promotion activities (credit-back), quality control, exempt dispositions, and interest and late charges provisions. The proposed rule allowed a 60-day comment period that ended April 25, 2022.

Prior to the end of the initial comment period, USDA received comments that called into question the process that effectuated the proposed rule. Specifically, the comments said that the recommended modification to 7 CFR 981.441, the administrative requirements for the credit-back provision, was not approved by the Board and was recommended to USDA without Board knowledge.

A review of Board proceedings and meeting minutes shows that the provision was approved by the Board. During the June 17, 2021 Board meeting, the Global Market Development Committee presented the suggested changes to section 981.441 for

consideration. The Board voted unanimously to approve. Subsequently, meeting minutes indicating this approval were unanimously approved by the Board in an email vote sent out on July 26, 2021.

The authority to allow for credit-back is found at 7 CFR 981.41(c), “Research and Development; Creditable expenditures,” while regulations implementing this authority are found at 7 CFR 981.441 “Credit for market promotion activities, including paid advertising.” Section 981.441, added in 1994, has been previously amended twice (1999 and 2005).

AMS is reopening the comment period for 15 days to allow for any additional comments on the proposed amendments to the regulations. Specifically, AMS is looking for comments on provisions related to credit-back administrative requirements to determine support for the changes. AMS is also looking for further comment on perceived issues related to the formulation of the recommendation for that provision. Accordingly, the comment period is hereby reopened until [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**Erin Morris,**

*Associate Administrator,*

*Agricultural Marketing Service.*

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